
**Criminal Justice & Corrections
Committee**

HB 1205

Brief Description: Decriminalizing "fine-only" misdemeanors.

Sponsors: Representatives O'Brien, Appleton and Chase.

Brief Summary of Bill

- Decriminalizes many misdemeanors that do not provide for incarceration.
- Makes technical corrections to modernize statute language.

Hearing Date: 2/1/05

Staff: Christopher Abbott (786-7119).

Background:

Fine-Only Misdemeanors

Misdemeanors carry a default maximum penalty of a \$1,000 fine and 90 days imprisonment in a county jail. For many minor offenses, however, penalty statutes specify a lower maximum fine and do not provide for any imprisonment at all. These "fine-only" misdemeanors include the following (not an exhaustive list):

1. Violating commercial feed regulations (first offense is a \$50-\$100 fine and a subsequent offense is a \$200-\$500 fine);
2. Cutting the ears of domestic animals (\$0-\$20 fine);
3. Violating food locker regulations (first offense is at least a \$100 fine and a subsequent offense is at least a \$200 fine);
4. Refilling for sale trademarked or labeled bottles without permission from the label or mark's owner (which may carry various penalties under trademark infringement statutes);
5. Violating statutory requirements for stamps and coupons redeemable for goods or money (\$100-\$1,000 fine);
6. Filing incomplete, untimely, or inaccurate information from a nonprofit corporation in required filings or annual reports to the Secretary of State (\$0-\$500 fine, may be assessed against the corporation or its directors and officers);
7. Violating statutory requirements for ceremonies solemnizing a marriage (a \$20-\$300 fine if failing to timely file a marriage certificate, and \$100-\$500 for either not being authorized to solemnize marriages or solemnizing an unlawful marriage);

8. Spending by school district officials that exceeds annual revenues (\$0-\$500 fine);
9. Failure of local government officials to comply with filing, notice, and spending rules for local government budgets (\$0-\$500 fine);
10. Violating regulations governing fraternal benefit societies (a \$50-\$200 fine for soliciting membership in an unlicensed society and a \$0-\$200 fine for violating other state rules regarding fraternal societies);
11. Retaliating against employees who testify about employer violations of wage and working conditions regulations (\$25-\$100 fine);
12. Polluting a watershed that leads to a city or municipal corporation's water supply (\$0-\$500 fine);
13. Violating safety regulations for water recreation facilities (\$0-\$500 fine);
14. Violating regulations for waste treatment plants (\$0-\$100 fine);
15. Violating regulations for water supply systems (\$0-\$100 fine);
16. Violating regulations governing the education of children with sensory impairments (\$50-\$200 fine);
17. Charging fees to process pension papers filed by veterans (\$10-\$50 fine);
18. Violating mining corporation statutes (\$0-\$200 fine);
19. Violating equipment requirements for railroad motor track cars (\$0-\$100 fine);
20. Denying the Department of Revenue access to company records, properties, or refusing a summons to appear as a witness (\$50-\$5,000 fine);
21. Violating boat registration requirements (a \$0-\$100 fine for the first offense, a \$0-\$200 fine for the second offense, and a \$0-\$400 fine for subsequent offenses); and
22. Violating statutes governing artesian wells (\$0-\$200 fine).

Misdemeanors vs. Civil Infractions

The primary difference between "fine-only" misdemeanors and civil infractions relates to the constitutional requirements of due process. Among other things, criminal defendants are constitutionally entitled to a jury trial and attorney, while civil defendants are not. Additionally, civil infraction defendants but not criminal defendants may have default judgments entered against them if they fail to appear in court.

The maximum penalty for civil infractions are: \$250 for a class 1 civil infraction; \$125 for a class 2 civil infraction; \$50 for a class 3 civil infraction; and \$25 for a class 4 civil infraction.

Summary of Bill:

"Fine-only" misdemeanor offenses are converted into civil infractions. The statutory fines are replaced with classification as either a class 1, 2, 3, or 4 infraction.

The result of converting some misdemeanors offenses into civil infractions is that the maximum penalties for several offenses are lowered. For example, the maximum penalty is lowered from \$500 to \$250 (the maximum penalty for a class 1 civil infraction) for offenses including inadequate disclosure of information in required filings to the Secretary of State by nonprofit corporations, unlawful solemnization of a marriage, violation of local government budget rules, and pollution of local water supplies, among others.

The following "fine-only" misdemeanors are converted into civil infractions:

1. Violating commercial feed regulations (first offense is a class 2 civil infraction and a subsequent offense is a class 1 civil infraction);
2. Cutting the ears of domestic animals (class 1 civil infraction);
3. Violating food locker regulations (first offense is a class 2 civil infraction and subsequent offenses are class 1 civil infractions);
4. Refilling for sale trademarked or labeled bottles without permission from the label or mark's owner (class 1 civil infraction);
5. Violating statutory requirements for stamps and coupons redeemable for goods or money (class 1 civil infraction);
6. Filing incomplete, untimely, or inaccurate information from a nonprofit corporation in required filings or annual reports to the Secretary of State (class 1 civil infraction);
7. Violating statutory requirements for ceremonies solemnizing a marriage (class 1 civil infraction for all offenses in this category);
8. Spending by school district officials that exceeds annual revenues (class 1 civil infraction);
9. Failure of local government officials to comply with filing, notice, and spending rules for local government budgets (class 1 civil infraction);
10. Violating regulations governing fraternal benefit societies (class 2 civil infraction for all offenses in this category);
11. Retaliating against employees who testify about employer violations of wage and working conditions regulations (class 2 civil infraction);
12. Polluting a watershed that leads to a city or municipal corporation's water supply (class 1 civil infraction);
13. Violating safety regulations for water recreation facilities (class 1 civil infraction);
14. Violating regulations for waste treatment plants (class 2 civil infraction);
15. Violating regulations for water supply systems (class 2 civil infraction);
16. Violating regulations governing the education of children with sensory impairments (class 1 civil infraction);
17. Charging fees to process pension papers filed by veterans (class 3 civil infraction);
18. Violating mining corporation statutes (class 1 civil infraction);
19. Violating equipment requirements for railroad motor track cars (class 3 civil infraction);
20. Denying the Department of Revenue access to company records or properties or refusing a summons to appear as a witness (class 1 civil infraction);
21. Violating boat registration requirements (first offense is a class 3 civil infraction, second offense is a class 2 civil infraction, and subsequent offenses are class 1 civil infractions); and
22. Violating statutes governing artesian wells (class 1 civil infraction).

Technical changes are made to modernize language for many penalty provisions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.